BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: November 17, 2004	Division:	Growth Management					
Bulk Item: Yes X No	Department:_	N/A .					
AGENDA ITEM WORDING: Approval of amendment number two to the contract between Monroe County and the firm of Freilich, Leitner & Carlisle for legal services to provide assistance in the preparation of amendments to the County's Comprehensive Plan and Land Development Regulations.							
ITEM BACKGROUND: The firm of Freilich, Leitner & Carlisle of Kansas City, Missouri, is currently providing legal services to assist the County in preparing amendments to the County's Comprehensive Plan and Land Development Regulations to implement Goal 105. Further legal services are required by the Growth Management Division that will need an increase in the budget set-aside for these services.							
Legal assistance to the County is authorized through first two tasks that will be undertaken by the law use determination process and provide specific reproblems identified in the evaluation; and, (2) to Comprehensive Plan and Land Development Reparticularly as related to applicable Federal and Separation of the country	firm will be: (1 ecommendations evaluate the proggulations from) to evaluate the County's beneficial on alternative approaches to correct posed package of amendments to the an overall legal defense standpoint					
The limit on the maximum compensation und remaining funds have already been committed.	er the current o	ontract needs to be revised as the					
PREVIOUS RELEVANT BOCC ACTION: Aplegal services in May 2002; and approval of amen							
CONTRACT/AGREEMENT CHANGES: Increase contract amount from \$95,000 to \$175,000							
STAFF RECOMMENDATIONS: Approval							
TOTAL COST: \$175,000	BUDO	GETED: Yes X No					
COST TO COUNTY: \$175,000	SOUL	RCE OF FUNDS: Fund 148					
REVENUE PRODUCING: Yes N/A No AMOUNT PER MONTH Year							
APPROVED BY: County Atty X OMB	/Purchasing X	_Risk ManagementX_					
DIVISION DIRECTOR APPROVAL: Timothy J. McGarry AJCP							
DOCUMENTATION: Included X	To Follow	Not Required					
DISPOSITION:		AGENDA ITEM # K-9					
		Kevised					

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

	CONTRA	ACT SUMMARY	·				
Contract with:	Freilich, Leitner Carlisle	Contract #	<u>,</u>				
		Effective Date:	Upon Approval				
		Expiration Date:					
Leitner & Car	e/Description: contract amendment betweelisle for legal services to prent will increase the contract	epare amendments	to the County's LDR's.				
Contract Manag	<u>`</u>	2519	Growth Management #11				
	(Name)	(Ext.)	(Department/Stop #)				
for BOCC meeti	ng on November 17, 2004	Agenda Deadlin): 				
	CONT	RACT COSTS					
Total Dollar Value of Contract: \$ \$175,000 Current Year Portion: \$ 80,000. Budgeted? Yes No Account Codes: 148-51000-530-340- Grant: \$ N/A County Match: \$ ADDITIONAL COSTS Estimated Ongoing Costs: \$ /yr For: (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)							
	CONT	RACT REVIEW					
	~						
Division Directo	Changes Date In Needed or 11-10-04 Yes No	T. Tust	Date Out				
Risk Manageme	ent il-1001 Yes No	(** V	11-1004				
O.M.B./Purchas	ing Yes No	Splia	to ago de 11/10/04				
County Attorney	A TITIOTA ACE NO	- ANII	11/10/04				
Comments:							
							

AMENDMENT NO. 2 TO CONTRACT FOR LEGAL SERVICES TO PREPARE COMPREHENSIVE AMENDMENTS TO CHAPTER 9.5, MONROE COUNTY CODE BETWEEN MONROE COUNTY AND FREILICH, LEITNER & CARLISLE, DATED MAY 30, 2002

The Board of County Commissioners and Freilich, Leitner, & Carlisle ("FLC"), hereby agree to amend the last sentence of Section 1. of the subject contract to read as follows:

"The maximum compensation available to FLC under this contract is \$175,000."

All other provisions of the Contract between Monroe County Board of County Commissioners and Freilich, Leitner, & Carlisle, shall remain in full force and effect.

ATTEST: Danny L. Kolhage, Clerk	BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA
By:	By: Mayor/Chairman
Date:	Date:
ATTEST:	FREILICH, LEITNER,& CARLISE
By:Assistant Secretary	By:Partner
Date:	Date:

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

AC	ORD.	CERTIFIC	ATE OF LIAB	LITY INSU	RANCE	OPID SN FREIL-1	DATE (MM/DD/YYYY) 08/27/04		
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	Freil	ich, Leitner One Main Plaz	& Carlisle	INSURER C:			The state of the s		
	4435	Main Street		INSURER D:	The state of the s				
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INSU	RED				nnity insurance		
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	Suite 1150		INSURER C:			· · · · · · · · · · · · · · · · · · ·	
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Monroe County Growth Management Attn: Kelly Papa 2798 Overseas Highway Suite 400			SHOULD ANYOU DATE THEREO NOTICE TO THE IMPOSE NO OB REPRESENTA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OF REPRESENTATIVES.			
Marathon, FL 33050			AUTHORIZED REPRESENTATIVE				

AMENDMENT NO. 1 TO CONTRACT FOR LEGAL SERVICES TO PREPARE COMPREHENSIVE AMENDMENTS TO CHAPTER 9.5, MONROE COUNTY CODE BETWEEN MONROE COUNTY AND FREILICH, LEITNER & CARLISLE, DATED MAY 30, 2002

The Board of County Commissioners and Freilich, Leitner, & Carlisle ("FLC"), hereby agree to amend the last sentence of Section 1. of the subject contract to read as follows:

"The maximum compensation available to FLC under this contract is \$95,000."

All other provisions of the Contract between Monroe County Board of County Commissioners and Freilich, Leitner, & Carlisle, shall remain in full force and effect.

ATTEST: Danny L. Kolhage, Clerk	BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA
By: Deputy Clerk	By: Mayor/Chairman
Date: 8-18-04	Date: 8-18-04
ATTEST: By: Assistant Secretary Associate Date: 9/20/04	By: Pariner Date: 20 04 MONROE COUNTY ATTORNEY APPROVED AS TO FORM: JOHN R. COLLINS COUNTY ATTORNEY

CONTRACT FOR LEGAL SERVICES TO PREPARE COMPREHENSIVE AMENDMENTS TO CHAPTER 9.5, MONROE COUNTY CODE

THIS CONTRACT is entered into by Monroe County, a political subdivision of the State of Florida, Marathon Government Center, 2798 Overseas Highway, Marathon, Florida, 33050, hereafter the County, and Freilich, Leitner & Carlisle, a partnership, 1000 Plaza West, 4600 Madison, Kansas City, Missouri, 64112-3012, hereafter FLC.

- 1. FLC represents that it is professional qualified to prepare amendments to the County's Land Development Regulations (Chapter 9.5, Monroe County Code), hereinafter the project. The budget and scope of services for all work assignments to be completed for the project by FLC shall be authorized in a Work Order(s) signed by FLC and the County Administrator's designee. The maximum compensation available to FLC under this contract is \$75,000.
- 2. If the County decides to abandon the project or fails to appropriate funds, the County must immediately notify FLC in writing. FLC must cease all work on the project upon receipt of the County's abandonment or nonappropriation letter. The County must pay FLC that amount due to FLC for work done but uncompensated up to the date of FLC's receipt of the abandonment or nonappropriation letter.
 - 3. FLC may only use qualified personnel to carry out the project.
- 4. FLC may not assign or subcontract its obligations under this contract other than the receipt of money without written consent of the County.
- 5. Records of FLC's direct personnel payroll and reimbursable expenses pertaining to the project, and records of the accounts between the County and FLC, must be kept on a generally accepted accounting basis and must be made available to the County or its authorized representative during normal business hours. FLC must keep the records for three years following the completion of project.
- 6. FLC is an independent contractor. Nothing in this contract may create a contractual relationship with, or any rights in favor of, any third party including subcontractors or

materialmen of FLC. FLC's use of any subcontractor(s) to carry our the project will not in any way relieve FLC of its obligations under this contract even though the subcontractor was approved by the County.

- 7. FLC must have the insurance of the amount and type described in Exhibit A. Exhibit A is attached and incorporated into this contract by reference with the Certificate of Liability naming Monroe County as the certificate holder.
- 8. FLC acknowledges that all documents created as part of the project are public records under Chapter 119, Florida Statutes. As a result, they must be made available at a reasonable place and time upon the request of a member of the public. Failure to do so is a breach of this contract entitling the County to treat the contract as terminated on the date of the violation of Chapter 119, Florida Statutes, with the County's obligation to pay extending only to work completed as of that date but as yet uncompensated.
- 9. This contract has been carefully reviewed by both FLC and the County. Therefore, this contract is not to be strictly construed against any party on the basis of authorship.
- 10. This contract represents the parties' final and mutual understanding. It replaces any earlier agreements or understanding, whether written or oral. This contract cannot be modified or replaced except by another signed contract.
- 11. Nothing in this contract should be read as modifying the applicable statute of limitations. The waiver of the breach of any obligation of this contract does not waive another breach of that or any other obligation.
- 12. FLC warrants that he/it has not employed, retained or otherwise had act his/its behalf any former County officer or employee subject to this prohibition of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision the county may, in its discretion, termination this contract without liability and may also, in its discretion, deduct from the contract or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee.

- 13. This contract is governed by the laws of the State of Florida, Venue for any litigation arising under this contract must be in Monroe County, Florida.
- 14. FLC agrees that it will not unlawfully discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, national origin or disability. FLC must insert a provision similar to this paragraph in any subcontracts awarded under this contract except those for the purchase of commercial supplies and raw materials.
- 15. All communication between the parties should be through the following individuals:

Monroe County Director of Planning & Env. Resources Marathon Government Center 2798 Overseas Highway Marathon, FL 33050 **FLC**

Freilich, Leitner & Carlisle 1000 Plaza West, 4600 Madison Kansas City, MO 64112-3012

16. This contract takes effect on the date of the signature of the signature of the last party to sign.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year written below

(SEAL) ATTEST: DANNY L. KOLHAGE, CLERK	BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA
By: Jamely Hanwich	By:
Députy Clerk Date: 05.15. 2002	Mayor/Chairman 05.15.2.02
(SEAL) Attest: By: Seal State State State State	FREILICH, LEVINER & CARLISLE By: Title: Carther
Date: 5/30/02	APPROVED AS TO FORM
-3 -	ROBERT

EXHIBIT A

INSURANCE REQUIREMENTS

CERTIFICATE OF LIABILITY

WORKERS' COMPENSATION INSURANCE REQUIREMENTS FOR

CONTRACT

BETWEEN MONROE COUNTY, FLORIDA AND

Prior to the commencement of work governed by this contract, the Contractor shall obtain Workers' Compensation Insurance with limits sufficient to respond to the applicable state statutes.

In addition, the Contractor shall obtain Employers' Liability Insurance with limits of not less than:

\$1,000,000 Bodily Injury by Accident \$1,000,000 Bodily Injury by Disease, policy limits \$1,000,000 Bodily Injury by Disease, each employee

Coverage shall be maintained throughout the entire term of the contract.

Coverage shall be provided by a company or companies authorized to transact business in the state of Florida.

If the Contractor has been approved by the Florida's Department of Labor, as an authorized self-insurer, the County shall recognize and honor the Contractor's status. The Contractor may be required to submit a Letter of Authorization issued by the Department of Labor and a Certificate of Insurance, providing details on the Contractor's Excess Insurance Program.

If the Contractor participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the Contractor may be required to submit updated financial statements from the fund upon request from the County.

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GENERAL L'IABILITY INSURANCE REQUIREMENTS FOR

CONTRACT

BETWEEN MONROE COUNTY, FLORIDA AND

Prior to the commencement of work governed by this contract, the Contractor shall obtain General Liability Insurance. Coverage shall be maintained throughout the life of the contract and include, as a minimum:

- Premises Operations
- Products and Completed Operations
- Blanket Contractual Liability
- Personal Injury Liability
- Expanded Definition of Property Damage -

The minimum limits acceptable shall be:

\$1,000,000 Combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

- \$ 500,000 per Person
- \$ 1,000,000 per Occurrence
- \$ 100,000 Property Damage

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS FOR
CONTRACT
BETWEEN MONROE COUNTY, FLORIDA AND

Recognizing that the work governed by this contract involves the furnishing of advice or services of a professional nature, the Contractor shall purchase and maintain, throughout the life of the contract, Professional Liability Insurance which will respond to damages resulting from any claim arising out of the performance of professional services or any error or omission of the Contractor arising out of work governed by this contract.

The minimum limits of liability shall be:

\$500,000 per Occurrence/\$1,000,000 Aggregate

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